



## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Nursing, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 90-20
<b>Regulation title</b>	Regulations Governing the Practice of Nursing
<b>Action title</b>	Inactive licensure
<b>Document preparation date</b>	6/14/07

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Final regulations were adopted by the Board of Nursing in response to a petition for rule-making, the Board of Nursing to allow a nurse with a current, unrestricted license to take an inactive status. Regulations set forth the process for obtaining an inactive license, the restriction on practice, and the requirements for reactivation to active status.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On May 15, 2007, the Board of Nursing adopted final regulations 18VAC90-20-10 et seq., Regulations Governing the Practice of Nursing to establish criteria for inactive licensure and reactivation of an inactive license.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system and to issue inactive licenses:

***§ 54.1-2400 -General powers and duties of health regulatory boards***

*The general powers and duties of health regulatory boards shall be:*

- 1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations. ...*
- 12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.*

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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Amendments are proposed in Section 30, which sets out the fee schedule for inactive licensure of nurses, and a new Section 225 which establishes the process for becoming inactive and the requirements for reactivation. To ensure that nurses with inactive licenses understand that they are not authorized to practice, even as a volunteer, the Board has added a rule to specify that holding an inactive license does not entitle an individual to practice nursing in Virginia or under a multistate licensure privilege in another state.

The Board also set the qualifications and criteria for reactivation as necessary to protect the health, safety and welfare of the public. Continuing education is not required for renewal of an active license, since it is presumed that the nurse is engaged in active practice and is therefore maintaining her knowledge and skills. However, to ensure that an inactive nurse is competent and ready to resume safe practice, the Board will require some evidence of continued competency, consisting of evidence of completion of 15 hours of continuing education in nursing approved by a regionally accredited educational institution or professional nursing organization or of passage of National Council Licensing Examination or active practice in another jurisdiction during the period in which the license has been inactive.

In addition, the Board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of §54.1-3007 of the Code of Virginia or any provision of this chapter. Such a provision protects the public because it will ensure that a nurse who has been disciplined in another jurisdiction or who has been found guilty of a violation that would be grounds for discipline in Virginia could be denied licensure.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

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Amendments to Chapter 20, Regulations Governing the Practice of Nursing will allow a registered nurse or licensed practical nurse with a current, unrestricted license to take an inactive status. Regulations set forth the fee for renewal of an inactive license, the process for obtaining an inactive license, the restriction on practice, and the requirements for reactivation to active status, which include submission of an application and fee and evidence of competency to resume practice.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

1) There are no advantages or disadvantages to the public. Nurses who would request inactive licensure would not actively practicing in any setting, so their inactive status would not remove them from the workforce.

2) There are no advantages or disadvantages to the agency or the Commonwealth. Experience with other boards has shown that a certain percentage of licensees will request inactive status, which results in reduced revenue, but others who may have allowed a license to lapse will choose to maintain an inactive license, resulting in a net revenue gain.

3) There are no other pertinent issues.

## Changes made since the proposed stage

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.*

There were no changes made in the adoption of the final regulation.

## Public comment

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Proposed regulations were published in the Virginia Register of Regulations on February 5, 2007. Public comment was requested for a 60-day period ending April 6, 2007. A Public Hearing before the Board was held on March 20, 2007, at which there was no oral comment presented.

The Virginia Nurses Association (VNA) commented in support of the proposed regulations with the requirement for reactivation should a retired nurse want to return to practice.

## All changes made in this regulatory action

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
30	n/a	Sets out the fees charged to applicants and licensees	Adds 2 new fees for: 1) issuance of an inactive licensure renewal, set at \$50; and a fee for late renewal of an inactive license at \$15.
n/a	225	n/a	<p>Subsection A provides that a registered nurse or licensed practical nurse who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license.</p> <p><i>Since inactive licensure is not an alternative to disciplinary action, it is necessary for the licensee to be in good standing when he or she becomes inactive. Reactivation is predicated on the idea that the licensee was current and active when inactive status was conferred.</i></p> <p>The holder of an inactive license shall not be entitled to practice nursing in Virginia or practice on a multistate licensure privilege but may use the title “registered nurse” or “licensed practical nurse”.</p> <p><i>This provision is necessary to clarify the meaning of inactive licensure, specifically that it does not entitle one to practice – even on a part-time or volunteer basis.</i></p> <p>Subsection B sets out the requirements and conditions for reactivation of an inactive license.</p> <p>To reactivate within one renewal period, a nurse must pay the difference between the inactive renewal and the active renewal fee.</p> <p>To reactive a license that has been inactive for more than one renewal period, a nurse may reactivate by:</p> <ul style="list-style-type: none"> <li>a. Submission of an application;</li> <li>b. Payment of the difference between the inactive renewal and the active renewal fee; and</li> <li>c. Providing evidence of completion of 15 hours of continuing education in nursing approved by a regionally accredited educational institution or</li> </ul>

			<p>professional nursing organization or of passage of National Council Licensing Examination during the period in which the license has been inactive.</p> <p>3. The board may waive all or part of the continuing education requirement for a nurse who holds a current, unrestricted license in another state and who has engaged in active practice during the period the Virginia license was inactive.</p> <p>4. The board may request additional evidence that the nurse is prepared to resume practice in a competent manner.</p> <p>5. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of §54.1-3007 of the Code of Virginia or any provision of this chapter.</p> <p><i>If a license has been inactive for more than two years, the Board requires an application that provides information on whether the applicant for reactivation has been actively practicing in another jurisdiction and whether there have been convictions or impairment that may represent a cause for denial of licensure. To ensure that an inactive licensee is safe to resume practice, there is a requirement for continuing education hours or some evidence of competency. The requirements for reactivation are similar to those for reinstatement of a lapsed license, except the application does not require payment of a reinstatement fee.</i></p>
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**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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There is no impact of the proposed regulatory action on the institution of the family or family stability.